IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION No. 2199 of 1997

Smt. Prafulla S. Shetty .. Petitioner.
Indian Inhabitant, residing at
H-7, Flat No.125, 1st Floor,
Kedar Lokpuram Co-op.
Housing Society Ltd.,
Smt. Gladdys Alvarse Marg,
Majiwada, Thane – 400 601.

V/S.

1. Vijaya Bank, a company
incorporated under the Banking
Regulation Act, with its
Thane Office at Malhar
Cinema Complex, Naupada,
Thane 400 602 and
its Mumbai office at Vikas Centre,
1st Floor, S.V.Road, Santacruz (W),
Mumbai 400 054.

2. Shri. C.H. Koteshwara Rao,
Enquiry Officer & Divisional Manager,
C/o. Vijaya Bank, Vikas Centre,
1st Floor, S.V. Road, Santacrus (West)
Mumbai – 400 054.

3. Shri C.S. Nanaih,
Deputy General Manager and
Disciplinary Authority,
Vikas Centre, 1st Floor, S.V. Road,
Santacruz (W),
Mumbai – 400 054.

4. Shri K.K. Rai,
   Appellate Authority
   Vikas Bank, Zonal Office,
   Vikas Centre, 1st Floor,
   S.V.Road, Santacruz (W)
   Mumbai – 400 054. ... Respondents

Shri R. D. Bhatt i/b. Shri Sanjay Udeshi for the petitioner.
Neel Helekar with Miss Joshi i/b. Haresh Mehta and Co., for respondent no.1.

CORAM: **SMT. R. P. DESAI**
&
SHRI A. P. DESHPANDE JJ.

DATE: 14re/8/2006

ORAL JUDGMENT (Per DESHPANDE J.)

1. The petitioner Mrs. Prafulla S. Shetty was served with a chargesheet dated 4.5.1992 under Regulation 6 of the Vijaya Bank Officer Employees' (Discipline & Appeal) Regulations, 1981, for fraudulently crediting a total amount of Rs.31,229/- to the Savings Bank Account No. 5479, standing in the name of her brother Dr. Naveen D. Shetty and withdrawal of the same subsequently by the petitioner and thereby committing fraud and misappropriation of the Bank's money by misusing

her official position in the Bank. At the relevant time in the year 1989 the petitioner was working as an Officer at Thane branch of Vijay Bank (A Government of India Undertaking). The enquiry in question pertains to only one of the fraudulent acts, whereas in regard to some other fraudulent transactions criminal cases were filed and in one of the criminal cases filed against the petitioner, the Chief Judicial Magistrate has convicted the petitioner for the offence punishable under sections 467, 468, 471 & 420 IPC and sentenced her to rigorous imprisonment for 2 years and to pay fine of Rs.2000/- and in default to suffer simple imprisonment for 3 months. We are informed that in the other case the petitioner has been acquitted.

2. Initially a preliminary enquiry was held and thereafter a regular departmental enquiry was conducted after serving a chargesheet on the petitioner. The Bank relied on 40 documents in support of its case and also examined six witnesses to substantiate the charge. The petitioner chose not to step into the witness box and did not also examine any

witness. After considering the evidence and material on record the the Enquiry Officer held that the charge is proved. For conveniently dealing with the charge, the Enquiry Officer had split up the same into some relevant issues and had proceeded to record the findings on the issues that were framed by him. After receipt of the report of the Enquiry Officer, the Disciplinary Authority, caused the same to be served on the petitioner and after obtaining the petitioner' s reply to the findings recorded by the Enquiry Officer, has proceeded to pass an order of dismissal of the petitioner from service of the Bank vide order dated 31.5.1996, after concurring with the findings recorded by the Enquiry Officer . The petitioner being aggrieved by the order of dismissal passed by the Deputy General Manager (Disciplinary Authority) carried an appeal to the General Manager (Personnel) (Appellate Authority). The Appellate Authority by an order dated 31st October 1996 has dismissed the appeal and confirmed the order passed by the Disciplinary Authority, dismissing the petitioner.

3. The learned counsel for the petitioner Shri R.D. Bhatt has made the following submissions:

(1) The petitioner was denied an opportunity to lead oral evidence though she was ready and willing to offer herself as a witness in the Departmental Enquiry.

(2) The petitioner was denied a reasonable and fair opportunity to defend the charges inasmuch as the petitioner was not supplied relevant documents asked for by the petitioner. The learned counsel has mainly contended that two very vital and important documents were withheld by the Bank and the same are the credit slips by which an amount of Rs. 31,000/- and Rs.229/- were credited to the Savings Bank A/c. No. 5479 on 9.9.1989.

(3) The petitioner was not permitted to cross examine some of the witnesses after they were re-examined by the Presenting Officer, though the evidence led in re-examination was new evidence.

(4) That the Enquiry Officer did not ensure the presence of the witnesses cited by the petitioner, despite the fact that the witnesses so cited were the employees of the Bank and the

Bank had control over them.

(5) It is lastly contended that various clauses under Regulation 6 of the Vijaya Bank Officer Employees' (Discipline & Appeal) Regulations, 1981, require conduct of the enquiry in adherence to the said provisions. The provisions were not complied with and hence the enquiry stands vitiated so also the consequential order of dismissal.

4. Per contra, the learned counsel appearing for the Bank has submitted that the petitioner was afforded all possible opportunity to defend the charges but the petitioner was only interested in delaying and protracting the enquiry by one way or the other. It is submitted that with a view to stall or protract the enquiry the petitioner had filed as many as three writ petitions in the High Court but the petitions were either dismissed in limine or withdrawn by the petitioner. It is categorically pointed out that the Bank had relied upon 40 documents and the said documents were served on the petitioner. It is also submitted that whatever documents the petitioner had demanded were supplied to the petitioner,

except those which were not available and which were removed/ destroyed by the petitioner herself. It is then submitted that immediately after the examination of witnesses of the Bank were over, the Enquiry Officer had asked the petitioner as to whether she is willing to lead oral evidence, to which the petitioner replied that she wants to file her written statement and she also sought time for filing of the same which was granted by the Enquiry Officer . In short, according to the learned counsel appearing for the respondent Bank the enquiry was conducted in adherence to the principles of natural justice and the order of punishment is based on the evidence on record and no document has been relied upon which was not served on the petitioner.

5. To enable us to properly appreciate the rival submissions of the learned counsel for the respective parties it is necessary to understand the manner in which the fraud and misappropriation is alleged to have been committed by the petitioner -

The petitioner was working as an Officer in the Thane

branch of the respondent Bank on 9.9.1989. On the said date the petitioner allegedly credited a total sum of Rs.31,229/- to the Savings Bank A/c. No. 5479 which was standing in the name of Dr. Naveen D.Shetty, the petitioner's brother. For crediting the the amount of Rs.31,229/-., the petitioner made two entries in the Savings Bank ledger by mentioning as under:

"By F.D. A/c. 82/87 - Rs.31,000/-

By interest - Rs. 229/-"

As a matter of fact F.D. A/c. No. 82 /87 was not standing in the name of Dr. Naveen D.Shetty. F.D. A/c. No. 82 / 87 referred to above was standing in the name of one M/s. Paresh Constructions and the same was closed in the books of the Bank as far back as on 16.7.1988. It is thus clear that the amount of Rs.31,000/- could not have been transferred from F.D. A/c. No. 82 /87. With a view to prevent the detection of the fraudulent transaction the petitioner inflated the amount, by making alterations in the consolidated debit voucher, pertaining to "interest paid on deposit account". The actual figure of interest paid on deposit account was

Rs.1,55,063.41 and the same came to be altered to Rs.1,86,292.41. The inflated amount is equal to the total amount deposited in Savings Bank A/c. No. 5479. According to the respondent Bank the petitioner played fraud by depositing a sum of Rs.31,229/- to Savings Bank A/c. No. 5479 standing in her brother's name and further caused a wrong entry in the consolidated debit voucher solely with a view to prevent the detection of fraud.

The amount of Rs.31,229/- deposited in Savings Bank A/c. No. 5479 was withdrawn by the petitioner in the following manner:

a) on 27.9.1989 Rs.15000/- was withdrawn through cheque bearing no. 512324 dated 27.9.1989 in cash and on the same day the petitioner credited the said amount of Rs.15000/- to the Savings Bank A/c. No. 6166, standing in the name of Mr. H. S. Shetty, the petitioner's husband.

(b) On 3.10.1989 a sum of Rs.16,598.40, being the entire credit balance outstanding in the said account no. 5479 was withdrawn by th petitioner through cheque bearing no. 512325 and the aid Savings Bank A/c. No. 5479 was closed

by th petitioner herself. Out of the proceeds, Rs.598.40 was retained by the petitioner and the balance amount of Rs.16,000/- was again credited to Savings Bank A/c. No. 6166, standing in the name of the petitioner's husband.

The relevant entries in the token issued register were made by the petitioner and both the cheques for withdrawing the amount from a/c no. 5479 and the pay-in-slips for crediting the amount to Savings Bank A/c. No. 6166 were passed by the petitioner. In order to prevent the detection of the fraudulent transactions the petitioner mentioned F.D. A/c. No. 82 /87 which was already closed in the Books of the Bank. The petitioner manipulated the entires in the consolidated debit voucher and also in the day book and the general ledger. The fictitious entries of Rs.31,000/- and Rs.229/- in S.B. account no. 5479 were entered by the petitioner herself. The amount so deposited in Savings Bank account no. 5479 was withdrawn by the petitioner at a later point of time. Initially the petitioner withdrew Rs.15,000/- on 27.9.1989 and a sum of Rs.16,598.40 on 3.10.1989 and the said account was closed on 3.10.1989. The cheque book

containing cheques bearing Nos. 512321 to 512340 were entered and taken delivery by the petitioner herself duly putting her signature in the signature column. It is thus clear that on the one hand the amount of Rs.1,55,063.41 ws inflated to Rs.1,86,229.41 and on the other hand the amount so inflated has been deposited in Savings Bank account no. 5479. In doing so there is a calculated attempt made by the petitioner to conceal the fraud or to make its detection very difficult.

6. The two credit slips under which the sum of Rs.31,000/- and Rs.229/- were deposited in the account of the petitioner's brother bearing Savings Bank account no. 5479 are missing and the learned counsel for the petitioner vehemently contends that unless and until the said two credit slips are produced it could not be concluded that the petitioner has played fraud and committed misappropriation. The said amounts were deposited showing the same as proceeds of F.D. Account no. 82 of 1987. As a matter of fact the said account was standing in the name of M/s. Paresh

Constructions and the account was already closed way back on 16.7.1988. As such, there could not have been any payment from F.D. Account no. 82 of 1987 as the account was already closed. The petitioner tried to make out a case that the source of the amount deposited in Savings Bank account no. 5479 (the petitioner's brother' saccount) under two entries of Rs.31,000/- and Rs.229/- were the proceeds of F.D. Account No. 32 of 1987 and not a/c. no. 82 of 1987. The petitioner' scase is that this account no.32 of 1987 was that of one Preeti Rai, wife of the petitioner' sbrother. The case tried to be made out by the petitioner was found to be wholly unsustainable for the obvious reason that the said account as well, viz. F.D. Account no. 32 of 1987, was closed down much prior to 9.9.1989. The perusal of the order passed by the disciplinary and the Appellate Authority clearly reveals that by examining six witnesses the bank has established that it is the petitioner who has inflated the amount of 'interest paid on deposit account' from Rs.1,55,063.41 to Rs.1,86,229.41 and the inflated amount is the difference which was fraudulently credited to Savings

Bank account no. 5479.

7. To bring home the charge the respondent bank has led oral evidence and with the support of documents produced on record, has proved the same. The evidence on record is weighty enough to record a finding about the charge being proved against the petitioner. In this view of the matter the petitioner's submission cannot be accepted that the evidence on record is not sufficient to record a finding about the charge being proved.

8. By examining inasmuch as 6 witnesses who were employees of the Bank all the relevant documents, the hand writing and the signatures of the petitioner have been proved. It will not be out of place to state at this juncture that the Bank's Investigating Officer who has been examined as witness no. 4 by the Bank had contacted the petitioner's brother Dr. Naveen D.Shetty during the course of fact finding enquiry conducted by him and the brother of the petitioner has stated that he had no knowledge about the Bank account standing in his

name and the transactions made therein. The petitioner' s brother no doubt declined to be a witness in the enquiry.

9. In the above factual matrix we proceed to consider the submissions made by the learned counsel for the respective parties. The record of the enquiry would clearly reveal that the 6 witnesses examined by the respondent bank have been cross examined at length by the petitioner and despite searching cross examination running into hundreds of pages the material evidence against the petitioner has remained intact. Turning to Regulation 6 which lays down the procedure for imposing major penalties it is to be seen that the various clauses make provision to ensure a just and fair trial, or to put it in other words, it would be apt to state that the provisions are various facets of the principles of natural justice. It is not in dispute that the petitioner was granted opportunity to defend the charges. But the dispute is whether the opportunity so granted was adequate or not. Touching the first submission that the petitioner was not permitted to lead oral evidence before the Enquiry Officer by

examining herself as a witness, the petitioner has placed reliance on the language used in clause 15 of Regulation 6 which lays down that when the case in support of the charges is closed, the officer employee may be required to state his defence, orally or in writing, as he may prefer. Placing reliance on the said provision it is contended that the rule offers a choice to the delinquent officer employee either to make the defence orally or in writing and according to the learned counsel, the petitioner was denied this choice which results in breach of principles of natural justice. Per contra, the respondent's case is that when the Enquiry Officer asked the petitioner as to whether she wants to examine herself in support of her case she informed that she would like to file her defence in writing. It is also pointed out that the petitioner had sought time for the said purpose and has also filed a statement in writing. It is hence claimed that there is no breach of clause 15. Turning to the proceedings of the enquiry of the relevant date, on which the evidence of the bank was closed, the following position is revealed from the record:

"EO – CSO : The defence witnesses cited by you in EXDE 7 as per your request letter dt. 9.3.94 have informed that they are not willing to appear as defence witnesses, and EXDE 7 was already furnished to you containing the information regarding their unwillingness to appear as defence witnesses. As they are not willing to be your defence witnesses would you like to yourself get examined as witness for your defence.

CSO – EO : Yes I would like to as mentioned in my letter dt. 29.12.94 I would like to have atleast 10 days time submit my written statement in writing.

EO – PO: Have you closed your management evidence?

PO – EO: Yes.

EO- CSO: You have heard the depositions of MW 3 to MW 6 in the course of the enquiry and would you like to make any submission regarding the adverse features appearing in the managements evidence recorded from MW 3 to MW 6 and if so you have permitted to submit the same.

CSO – EO: It will be submitted separately within a

week' time.

ED – CSO: Since you have no more defence witnesses and no more defence documents in your defence I would like to know whether you like to submit your written arguments if any in your defence for disproving the objects framed against you. And if so you are permitted to submit the same within 15 days from today.

CSO – EO: After going through the investigation report I agree to submit the same within 15 days.

EO – PO : Since you have closed the evidence of the management would you like to submit your written arguments if any in support of the charges framed against the CSO, and if so you are permitted to submit the same within 15 days, after receipt of the copy of the written submission of the CSO. You may also endorse a copy of the written arguments to CSO".

10. The record clearly reveals that the Enquiry Officer did ask

the petitioner as to whether she wants to have herself examined as a witness. The petitioner, instead of offering herself as a witness, sought 10 days time and further submitted that she needs 10 days time to file the written statement in writing. The petitioner did actually file the written statement in writing. It is thus clear that the Enquiry Officer did not prevent the petitioner from making an oral statement. Even assuming that instead of permitting the petitioner to make her oral statement of her defence she was allowed to file her written statement of her defence. Still this by itself cannot vitiate the entire enquiry inasmuch as there has been substantial compliance of clause 15. The learned counsel for the petitioner has also failed to point out as to what prejudice is caused to the petitioner by denying an opportunity to make an oral statement and instead obtaining written statement from her. As the requirement of clause 15 is substantially complied with, even assuming the case of the petitioner to be true that she was desirous of making oral statement but was made to file a written statement it has not caused any prejudice to the petitioner. In our view, the

petitioner was afforded adequate opportunity in that regard.

11. Coming to the next submission of the petitioner that the petitioner was not served with two crucial and important documents in the nature of credit slips where-under the amount of Rs.31,000/- and Rs.229/- were deposited in the account standing in the name of the petitioner's brother. It is the case of the respondent Bank that the said two documents were not available with the Bank itself as the same were either removed or destroyed from the record of the Bank. According to the respondent the petitioner herself must have caused the removal of the said documents as they were incriminating documents which could be used against the petitioner herself. The fact remains that the said two documents were not available before the Enquiry Officer and hence could not be proved by the witnesses examined by the management. If the documents are not available with the bank it can hardly be successfully canvassed by the petitioner and a grievance made that the petitioner' scase stands prejudiced on account of non supply of the said two

documents. No doubt the said documents are relevant links in the chain of events. The grievance of the petitioner is wholly unsustainable as it pertains to failure on the part of the respondent to supply the said documents. If the documents are not available the respondent cannot be blamed for non supply of the said documents. Even otherwise the issues can be answered having regard to the preponderance of probabilities. Hence we reject the second submission made by the learned counsel for the petitioner.

12. The third submission is that after the cross examination of the witnesses examined by the Bank, by the petitioner was over, some of the witnesses were re- examined by the Presenting Officer, touching new evidence and hence when the petitioner asked for a chance to further cross examine the said witnesses, the Enquiry Officer should have permitted the petitioner to further cross examine the witnesses. Though the point is stated, it has not been shown to us as to which new evidence has been brought on record in re – examination. The re- examination does not bring any new

material or evidence on record but touches the aspect on which the witnesses were cross examined and hence no case for further cross examination is made out.

13. It is forthly contended by the learned counsel for the petitioner that the petitioner had named some of the employees of the Bank as her witnesses and as they were the employees of the Bank, the bank was obliged to ensure their presence before the Enquiry Officer to be the witnesses for the petitioner. The said submission is recorded only for the same being rejected at the threshold. It is for the party concerned to secure the presence of his witnesses and cannot expect the other side to ensure presence of his witnesses. It is for the officer – employee to produce his / her evidence. If the witnesses have declined to come forward in support of the present petitioner's case, the Bank cannot be blamed for not securing their attendance as witnesses for the petitioner.

14. Lastly, general submissions are made touching regulation 6 by contending that the provisions contained in the said

regulation in various clauses are substantive in nature and are designed to achieve fair-play in enquiry and hence needs to be read as mandatory. It is then submitted that infraction of the said provisions must result in denial of just and fair play and hence on this ground it is claimed that the findings of the Enquiry Officer so also the impugned order of dismissal be quashed and set aside.

15. The learned counsel for the petitioner has placed reliance on the following judgments of the Apex Court in support of his contentions:

1) Gope Laxmichand Badlani vs. Orient Bank of Commerce, New Delhi and ors. reported in 2002 (3) L.L.N. 206.

2) State of U.P. vs. Shatrughan Lal & anr. , reported in 1988 II L.L.J. 189,

3) Kashinath Dikshita vs. Union of India and ors., reported in AIR 1986 SC 2118,

4) U.P.State Road Transport Corporation vs. Muniruddin, reported in (1990) 4 S.C.C. 464,

5) Committee of Management, Kisan Degree College vs. Shambhu Saran Pandey and ors., reported in (1995) 1 SCC 404,

6) Kundeep Singh vs. Commissioner of Police & ors. reported in 1999 1 CLR 499,

7) State Bank of Patiala & ors. vs. S. K. Sharma, reported in JT 1996 (3) S.C. 722 and

8) Prathama Bank, Head Office – Moradabad through its Chairman vs. Vijay Kumar goel & Anr., reported in 1989 II CLR S.C. 504.

The said judgments deal with adherence to the rule of *Audi alteram partem*. suffice it to state that compliance of rules of natural justice depends on facts of each case and there cannot be a straight jacket formula which can apply to different set of facts. The relevant judgment cited by the learned counsel for the petitioner is reported in JT 1996 (3) S.C. 722 in the case of State Bank of Patiala & ors. vs. S. K. Sharma. This judgment clinches the issue. While interpreting similar rules of the State Bank of Patiala (Officers')Service Regulations

1979. Justice B.P. Jeevan Reddy, after having a retrospect of various judgments holding the field concluded the legal position and summarised the same in para 34 of the judgment, which reads thus:

> "34. We may summarise the principles emerging from the above discussion. These are by no means intended to be exhaustive and are evolved keeping in view the context of disciplinary enquiries and orders of punishment imposed by an employer upon the employee.
>
> (1) An order passed imposing a punishment on an employee consequent upon a disciplinary/departmental enquiry in violation of the rules/regulations / statutory provisions governing such enquiries should not be set aside automatically. The Court or the Tribunal should enquire whether (a) the provision violated is of a substantive nature, or (b) whether it is procedural in character.
>
> (2) A substantive provision has normally to be complied with as explained herein before and the theory of substantial

compliance or the test or prejudice would not be applicable in such a case.

(3) In the case of violation of a procedural provision, the position is this : procedural provisions are generally meant for affording a reasonable and adequate opportunity to the delinquent officer / employee. They are, generally speaking conceived in his interest. Violation of any and every procedural provision cannot be said to automatically vitiate the enquiry held or order passed. Except cases falling under `no notice' , `no opportunity' and `no hearing' categories, the complaint of violation of procedural provision should be examined from the point of view of prejudice, viz., whether such violation has prejudiced the delinquent officer / employee in defending himself properly and effectively. If it is found that he has been so prejudiced, appropriate orders have to be made to repair and remedy the prejudice including setting aside the enquiry and /or the order of punishment. If no prejudice is established to have

resulted therefrom, it is obvious, no interference is called for . In this connection, it may be remembered that there may be certain procedural provisions which are of a fundamental character, whose violation is by itself proof of prejudice. The court may not insist on proof of prejudice in such cases. As explained in the body of the judgment, take a case where there is provision expressly providing that after the evidence of the employer / government is over, the employee shall be given an opportunity to lead defence in his evidence, and in a given case, the enquiry officer does not give that opportunity in spite of the delinquent officer / employee asking for it. The prejudice is self-evident. No proof of prejudice as such need be called for in such a case. To repeal, the test is one of prejudice i.e., whether the person has received a fair hearing considering all things. Now, this very aspect can also be looked at from the point of view of directory and mandatory provisions, if

one is so inclined. The principle stated under (4) herein below is only another way of looking at the same aspect as is dealt with herein and not a different or distinct principle.

(4)(a) In the case of a procedural provision which is not of a mandatory character, the complaint of violation has to be examined from the standpoint of substantial compliance. Be that as it may, the order passed in violation of such a provision can be set aside only where such violation has occasioned prejudice to the delinquent employee.

(b) In the case of violation of a procedural provision, which is of a mandatory character, it has to be ascertained whether the provision is conceived in the interest of the person proceeded against or in public interest. If it is found to be the former, then it must be seen whether the requirement, either expressly or by his conduct. If he is found to have waived it, then the order of punishment cannot be set aside on the ground of said violation. If, on the other

hand, it is found that the delinquent officer / employee has not it or that the provision could not be waived by him, then the Court or Tribunal should make appropriate directions [include the setting aside of the order of punishment], keeping in mind the approach adopted by the Constitution Bench in B. Karunakar. The ultimate test is always the same, viz., test of prejudice or the test of fair hearing, as it may be called.

(5) Where the enquiry is not governed by any rules / regulations / statutory provisions and the only obligation is to observe the principles of natural justice – or, for that matter, wherever such principles are held to be implied by the very nature and impact of the order / action – the Court or the Tribunal should make a distinction between a total violation of natural justice [rule of *audi alteram partem*] and violation of a facet of the said rule, as explained in the body of the judgment. In other words, a distinction must be made between "no opportunity" and no adequate

opportunity i.e., between "no notice" / "no hearing" and "no fair hearing". (a) In the case of former, the order passed would undoubtedly be invalid [one may call it "void" or a nullity if one chooses to]. In such cases, normally, liberty will be reserved for the Authority to take proceedings afresh according to law, i.e., in accordance with the said rule [*audi alteram partem*]. (b) But in the latter case, the effect of violation [of a facet of the rule of *audi alteram partem*] has to be examined from the standpoint of prejudice; in other words, what the court or Tribunal has to see is whether in the totality of the circumstances, the delinquent officer / employee did or did not have a fair hearing and the orders to be made shall depend upon the answer to the said query. [It is made clear that this principles [No.5] does not apply in the case of rule against bias, the test in which behalf are laid down elsewhere.]

(6) While applying the rule of *audi alteram partem* [the primary principle of natural justice] the Court / Tribunal /

Authority must always bear in mind the ultimate and over-riding objective underlying the said rule, viz., to ensure a fair hearing and to ensure that there is no failure of justice. It is this objective which should guide them in applying the rule to varying situations that arise before them.

(7) There may be situations where the interests of state or public interest may call for a curtailing of the rule of *audi alteram partem*. In such situations, the Court may have to balance public / State interest with the requirement of natural justice and arrive at an appropriate decision."

16. In the present case we are of the clear view that neither any substantive provision contained in Regulation 6 is violated nor is any mandatory procedural provision. We are of the considered opinion that a fair and reasonable opportunity was afforded to the petitioner in defending the charges. There is no merit in the submissions made by the learned counsel for

the petitioner that the impugned order needs to be quashed and set aside as they are passed in breach of the principles of natural justice. Assuming that there is no scrupulous adherence to some of the provisions of regulation 6, there has been a substantial compliance and the petitioner has not suffered any prejudice whatsoever.

17. In the result, there being no merit in the petition the same deserves to be dismissed. We accordingly dismiss this writ petition with no order as to costs.

(SHRI A. P. DESHPANDE J.) (SMT. R. P. DESAI J)